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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,341	12/13/2001	Tom Steinke	STEINKE.005A	6810

20995 7590 06/28/2005

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EXAMINER
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THALER, MICHAEL H

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/017,341	STEINKE, TOM	
	Examiner	Art Unit	
	Michael Thaler	3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on 21 June 2005.

2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 10-19 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 10-19 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All    b) ☐ Some \*    c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 11, 2005 has been entered.

Claims 10-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 10, the term "radial" in line 7 is confusing and inaccurate since the elements extend primarily in the circumferential direction rather than the radial direction of the stent. Claim 15 is indefinite for the same reason.

Claims 10-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fordenbacher (5,733,328) in view of Ryan (5,830,217). Fordenbacher discloses a catheter having an expandable member (the balloon catheter described in col. 5, lines 24-27) coupled to an expansion actuator (the source of inflation fluid for the balloon catheter) and a stent (e.g. the stent shown in figure 1) comprising a tubular member comprising

Art Unit: 3731

a series of locking elements 21, 22, 23, wherein each element is structurally separate from the other elements and forms only a fraction of the circumference of the tubular member and at least one articulating mechanism 385 that permits one-way sliding of the radial elements but prevents recoil from the expanded diameter (col. 6, lines 46-48), wherein no radial element overlaps with itself in the second expanded diameter. Fordenbacher fails to disclose a degradable polymeric coating that holds the stent on the expandable member. However, Ryan teaches that a polymeric coating should be applied to a stent and expandable member in order to obtain the advantage of keeping the stent securely attached to the catheter until deployment is desired (col. 2, lines 35-38 and col. 2, line 64 to col. 3, line 9). It would have been obvious to include a polymeric coating on the Fordenbacher stent and expandable member so that it too would have this advantage. Note that Ryan discloses polyethylene glycol, for example, as the polymer (col. 6, lines 44-51). As to claim 11, note col. 8, lines 60-62 of Ryan. As to claims 13 and 14, Fordenbacher fails to disclose radial elements that alternate between radial elements having one rib and radial elements having two ribs. However, it is old and well known in this art to provide such an arrangement in order to provide enhanced strength to the stent. It would have

Art Unit: 3731


been obvious to this arrangement for the Fordenbacher stent so that it too would have this advantage. The above well known in the art statement is taken to be admitted prior art because applicant failed to traverse the examiner's assertion (M.P.E.P. 2144.03).

Applicant's arguments with respect to claims 10-19 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Thaler whose telephone number is (571)272-4704. The examiner can normally be reached Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571)272-4963. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

mht  
6/24/05



MICHAEL THALER  
PRIMARY EXAMINER  
ART UNIT 3731